

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JACK MANN,

Plaintiff,

No. 14-13439

v.

District Judge Arthur J. Tarnow
Magistrate Judge R. Steven Whalen

UNITED STATES OF AMERICA,

Defendant.

REPORT AND RECOMMENDATION

On September 4, 2014, Plaintiff Jack Mann, a prison inmate in the custody of the Federal Bureau of Prisons (“BOP”), filed a *pro se* civil complaint, naming individual Defendants employed by the BOP. Before the Court is Plaintiff’s self-styled “Motion in Opposition to Defendant’s Belief that they are not Subject to a Default Due to a Failure to Respond in a Timely Manner” [Doc. #22]. Plaintiff asks that judgment be entered in his favor against the named Defendants, making this a dispositive motion, and requiring that I proceed by Report and Recommendation under 28 U.S.C. § 636(b)(1)(B). I recommend that the Plaintiff’s motion be DENIED.

DISCUSSION

Plaintiff filed this motion on February 23, 2015, apparently in response to a motion to extend time to answer the complaint filed by Defendants Douglas Straub, Hillary Calvird, and Michael Calvird [Doc. #19]. It appears that Plaintiff is asking for a default judgment. In any event, on February 19, 2015, the Court entered a text-only order granting the Defendants’ motion for extension. Plaintiff has cited no other basis for entering judgment in his favor. In addition, on April 8, 2015, the Court entered an order

dismissing Defendants Straub, Hillary Calvird and Michael Calvird with prejudice, and substituting the United States of America as the sole Defendant [Doc. #30]. Thus, Plaintiff's motion is moot.

CONCLUSION

I recommend that Plaintiff's motion [Doc. #22] be DENIED AS MOOT.

Any objections to this Report and Recommendation must be filed within fourteen (14) days of service of a copy hereof as provided for in 28 U.S.C. §636(b)(1) and E.D. Mich. LR 72.1(d)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985); *Howard v. Secretary of HHS*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Filing of objections which raise some issues but fail to raise others with specificity will not preserve all the objections a party might have to this Report and Recommendation. *Willis v. Secretary of HHS*, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Pursuant to E.D. Mich. LR 72.1(d)(2), a copy of any objections is to be served upon this Magistrate Judge.

Within fourteen (14) days of service of any objecting party's timely filed objections, the opposing party may file a response. The response shall be not more than twenty (20) pages in length unless by motion and order such page limit is extended by the court. The response shall address specifically, and in the same order raised, each issue contained within the objections.

s/ R. Steven Whalen
R. STEVEN WHALEN
UNITED STATES MAGISTRATE JUDGE

Dated: May 21, 2015

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was sent to parties of record on May 21, 2015, electronically and/or by U.S. mail.

s/Carolyn M. Ciesla
Case Manager to the
Honorable R. Steven Whalen